

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GABRIEL BLEA,

Plaintiff,

vs.

No. CV 21-00763 KWR/KRS

UNITED STATES, UNITED STATES ATTORNEY,
ANGELICA HALL, PUBLIC DEFENDER,

Defendants.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on the pro se handwritten Civil Complaint filed by Gabriel Blea. (Doc. 1). The Court determines that the pro se filing is deficient because it is not in proper form or signed under penalty of perjury by Plaintiff, and Plaintiff has not paid the \$402 filing fee or filed an Application to Proceed in the District Court Without Prepaying Fees and Costs.

Plaintiff is incarcerated at the Cibola County Detention Center. (Doc. 1). Plaintiff's filing consists of a document stating "Defendant has committed Misprision of Treason 18 U.S.C. 2382, by not prosecuting the elected officials who have committed Treason, 18 U.S.C. 2381, by not having surety bonds on file at the Secretary of State's Office to comply with NMSA 10-2-7."

(Doc. 1 at 1). Plaintiff seeks:

\$15 Million in punitive damages. . . Plaintiff also seeks the immediate resignation of all elected officials involved in the government RICO and wants the defendant to make this happen because that's its job. Plaintiff also seeks the prosecution of the State of New Mexico Finance Board Officers for being the principals-in-charge of the New Mexico RICO. For the charge of Treason, Plaintiff wants Defendant to seek the death penalty for these persons since they are the ones ultimately responsible for harming the people with treasonous acts during a time of war.

(Doc. 1 at 2-3).

Plaintiff's Civil Complaint appears to be largely incomprehensible. However, although he does not expressly allege violation of any constitutional right, Plaintiff's filing may possibly be an attempt to assert prisoner civil rights claims under 42 U.S.C. § 1983 or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). A civil rights complaint under 42 U.S.C. § 1983 is the exclusive vehicle against state officials for vindication of substantive rights under the Constitution. *See Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (claims against state actors must be brought under 42 U.S.C. § 1983). *Bivens* is the vehicle for civil rights claims against federal officials.

The filing is not in proper form to assert civil rights claims and is not signed under penalty of perjury as required by Fed. R. Civ. P. 11(a). Plaintiff is also notified that he can only assert personal claims for violation of his own civil rights, not generalized claims on behalf of others. In addition, under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the federal filing fee from Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has not paid the \$402.00 filing fee. He has submitted a handwritten statement asking to proceed *in forma pauperis*, but it is not in proper form for an application to proceed in federal court under § 1915.

Plaintiff must cure these deficiencies if he wishes to pursue his claims. The deficiencies must be cured within thirty (30) days of entry of this Order. Plaintiff must include the civil action number, CV 21-00763 KWR/KRS on all papers he files in this proceeding. If Plaintiff fails to cure the deficiencies within thirty (30) days, the Court may dismiss this proceeding without further notice.

IT IS THEREFORE ORDERED that, within thirty (30) days of entry of this Order, Plaintiff Gabriel Blea cure the deficiencies by (1) paying the \$402 filing fee or submitting an

Application to Proceed in the District Court Without Prepaying Fees and Costs (including the required 6-month inmate account statement) and (2) filing a prisoner civil rights complaint in proper form.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915, with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions.

A handwritten signature in black ink, appearing to read "Kevin Smeagel". The signature is written in a cursive, flowing style.

UNITED STATES MAGISTRATE JUDGE